

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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January 18, 2022

Opposition No. 91249427 (Parent)

Evolutionary Guidance Media R&D Inc.

v.

*Cyberman Security, LLC AKA The
CyberHero Adventures: Defenders of the
Digital Universe*

Opposition No. 91253845

*Cyberman Security, Inc., aka the Cyberhero
Adventures: Defenders of The Digital
Universe*

v.

Evolutionary Guidance Media R&D Inc.

Katie Bukrinsky, Interlocutory Attorney:

On December 23, 2021, Applicant filed its main brief in these consolidated proceedings, with attached exhibits. 16 TTABVUE.¹ On December 27, 2021, Opposer filed a motion to strike the exhibits to Applicant's brief on the grounds that they were not submitted during the testimony period, and also requested to strike Applicant's

¹ Applicant's change of correspondence address filed December 23, 2021 is noted. The Board's records have been updated.

brief to the extent it relies on these exhibits. 18 TTABVUE. Applicant filed a response to the motion on January 14, 2022. 19 TTABVUE.

Determining Opposer's motion to strike would require a review of the trial brief and evidence submitted, which the Board will not do prior to final decision. *Genesco Inc. v. Martz*, 66 USPQ2d 1260, 1263 (TTAB 2003); *Weyerhaeuser Co. v. Katz*, 24 USPQ2d 1230 (TTAB 1992); TBMP § 707.02(c) (2021). Moreover, the motion to strike was raised for the first time during the submission of final trial briefs on the case. In view thereof, consideration of the motion to strike is **DEFERRED** until final decision.

Trial dates remain as previously set.